REMARKS/ARGUMENTS

The Applicants have carefully considered this application in connection with the Examiner's Final Action and respectfully request reconsideration of this application in view of the foregoing amendments and following remarks.

The Applicants originally submitted Claims 1-20 in the application. In an amendment filed July 27, 2005, the Applicants amended Claims 1, 8 and 15. In this response, the Applicants amend Claims 1 and 8. Accordingly, Claims 1-20 are currently pending in the application.

I. Rejection of Claims 1-3, 7-10 and 14 under 35 U.S.C. § 102

The Examiner has rejected Claims 1-3, 7-10 and 14 under 35 U.S.C. § 102(e) over U.S. Patent Application Publication No. 2002/0073084 to Kauffman, *et al.* (Kauffman). Specifically, the Examiner asserts that Kauffman teaches that a caching inserter may be located in an end-user system, and that Kauffman therefore anticipates the element of Claims 1, *e.g.*, "a media server that distributes media to remote players ..., said remote players configured to convert said media to audio or video content and play back said content for listening or viewing by an audience." The Applicants respectfully disagree, because Kaufmann does not teach this element.

Kauffman teaches a networked multimedia distribution system that provides the ability to insert advertisements into the playback stream multimedia file destined for an end-user. See Abstract. Components of this system include a local point-of-presence (POP) 32 and a residential gateway device, such as a television 12 and a computer terminal 16. See ¶ 17; Fig. 1. The POP 32 comprises a caching inserter 30 that provides functionality to insert an advertisement into the playback stream. See ¶ 18. Furthermore, Kauffman teaches a billing system 42 that may be

configured collect information on the identity of the various advertisements inserted into the playback stream, and various history parameters related to their playback, from the caching inserter 30.

But, as the Applicants set forth in their June 27 response, Kauffman does not teach a "media server that distributes media to remote players ..., said remote players configured to convert said media to audio or video content and play back said content for listening or viewing by an audience." The Examiner, in his September 20 Action, asserts that Kauffman ¶ 0003 teaches that the media player may be embodied in a TV, set top box, or computer system. With respect, the Examiner is not correct. Paragraph 0003 reads, in its entirety,

> "Streaming media" is now considered to be a term of art and defines the capability to download multimedia files in real time (or "near real" time) and play the file on an end-user device, such as through a set-top box on a television or on a computer display device.

This paragraph teaches that a multimedia file may pass *through* a set-top box, and then may be played on an end-user device. This establishes a distinction between set-top box and media player. This distinction is elaborated on below.

The Examiner further asserts that ¶ 0009 "states that the caching inserter may be placed at the end user, within the system of the media player, disposed in the TV, set top box, or computer system." Again, the Examiner is not accurate in his representation of ¶ 0009. This paragraph states, in relevant part,

> The POP where the advertisement cache is located could be at any convenient place along the signal path between the information source(s) and the end-user. For example, the advertisement cache could be at the headend, or at a FTTH node in a neighborhood. *At the extreme*, the advertisement cache could be part of a set-top box at the end-user location.

(emphasis added.)

This paragraph plainly teaches a cache located in a set-top box, not "a caching inserter ... within the system of the media player, disposed in the TV, set top box, or computer system" as asserted by the Examiner. The first sentence of ¶ 0009, with the distinction provided by ¶ 0003, teaches that the POP (and cache) may be located up to, *but not including*, the television or computer display device. Thus, Kauffman teaches that the cache inserter is not located in the end-user device, and cannot anticipate the element at issue in Claim 1.

The Examiner further asserts that ¶ 0010 teaches that as-run logs may be collected from the end user. Even if retrieval of such data from a set-top box can be construed as collecting from the end user, while reserving judgment on the point, such a teaching would not defeat the novelty of Claim 1. The relevant element of Claim 1 the Examiner appears to be addressing reads "a tracking subsystem that retrieves as-run logs from said remote players...." But as set forth above, Kauffman specifically excludes the possibility that the TV, his "remote player," contains a cache from which statistics may be collected. Thus, Kauffman fails to anticipate this element of Claim 1.

For the reasons set forth above, Kauffman fails to anticipate each and every element of Claim 1, and the claim is allowable. By analogous argument, Claim 8 is also allowable. Because the

claims depending from Claims 1 and 8 include the limitations of their respective base claims, Claims 2-7 and 9-14 are also allowable. Accordingly, the Applicants respectfully request that the Examiner withdraw his rejection of Claims 1-14 under 35 U.S.C. § 102.

II. Rejection of Claims 4-7, 11-14, and 15-20 under 35 U.S.C. § 103

The Examiner has rejected Claims 4-7, 11-14, and 15-20 as obvious over Kauffman in view of various secondary references. As set forth above, Claims 1 and 8 are allowable, so Claims 4-7 and 11-14 are also allowable.

The Applicants provided a specific rebuttal to the Examiner's *prima facie* case with respect to obviousness of Claims 15-20 in the June 27 response. The Examiner does not explicitly address the Applicants' rebuttal, relying instead on his assertion that Kauffman teaches that the caching inserter may be located in an end-user device.

As set forth above, the Examiner's assertion is not correct. Moreover, the Examiner has not cited any secondary reference to teach or suggest the element of Claim 15, *e.g.*, a "media server that distributes music to remote players ..., said remote players configured to play back music for listening by an audience." Therefore, the combination of Kauffman and each secondary reference fails to teach or suggest each and every element of Claim 15, and the claim is allowable. Because their respective base claims are allowable, Claims 16-20, which depend from Claim 15, are also allowable. Accordingly, the Applicants respectfully request that the Examiner withdraw the rejection of Claims 15-20 under 35 U.S.C. § 103.

III. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-20.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

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Respectfully submitted,

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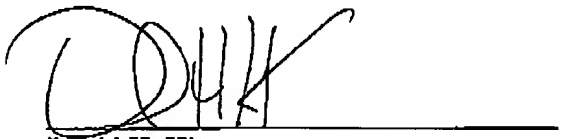

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